

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ALVIN DALTON,
Plaintiff,
v.
M. VOTARI,
Defendant.

Case No. [23-cv-01598-JSW](#)

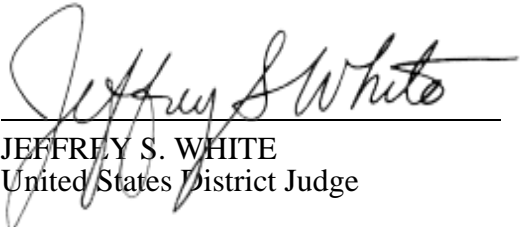
**ORDER VACATING ORDER OF
DISMISSAL WITH LEAVE TO
AMEND; OF DISMISSAL**

Plaintiff, a California prisoner proceeding pro se, filed this civil rights action under 28 U.S.C. § 2254. The complaint was dismissed with leave to amend. (ECF No. 7.) It has come to the Court's attention that the claims are duplicative of the claims in Plaintiff's earlier-filed case, which is now pending; Plaintiff sues the same Defendant on the same grounds based upon the same incidents. *Compare* ECF No. 1 *and* ECF No. 1 in *Dalton v. Votari*, No. C 21-10032 JSW (PR). There is no need to have two cases addressing the same claims. Accordingly, the order of dismissal with leave to amend¹ (ECF No. 7) is VACATED and this case is DISMISSED as duplicative. Plaintiff's claims will be adjudicated in his earlier-filed case.

The clerk shall enter judgment and close the file.

IT IS SO ORDERED.

Dated: August 31, 2023


JEFFREY S. WHITE
United States District Judge

¹ The Court's reasoning in the order of dismissal with leave to amend (ECF No. 7) was rejected by the Ninth Circuit in its remand order in Plaintiff's prior case, *see Dalton v. Votari*, No. C 21-10032 JSW (PR) (ECF No. 11).